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UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER PSAILA,

Defendant.

No. CR 17-257-FMO

STIPULATION AND JOINT REQUEST FOR  
A PROTECTIVE ORDER REGARDING  
DISCOVERY CONTAINING PERSONAL  
IDENTIFYING INFORMATION

PROPOSED ORDER FILED SEPARATELY

Plaintiff, United States of America, by and through its counsel of record, the Acting United States Attorney for the Central District of California and Assistant United States Attorney Frances S. Lewis, and defendant CHRISTOPHER PSAILA ("defendant"), by and through his counsel of record, Deputy Federal Public Defender Jennifer Uyeda (collectively the "parties"), for the reasons set forth below, hereby stipulate, agree, and request that the Court enter a protective order in this case restricting the use and dissemination of personal identifying information of real persons

1 pursuant to Federal Rule of Criminal Procedure Rule 16(d)(1), as set  
2 forth below.

3 1. On April 28, 2017, the grand jury returned an indictment  
4 against defendant in United States v. PSAILA, CR-17-257-FMO.  
5 Defendant is charged with violations of 18 U.S.C. § 1029(a)(2) (use  
6 of an unauthorized access device); 18 U.S.C. § 1343 (wire fraud) and  
7 18 U.S.C. § 1028A(A)(1) (aggravated identity theft). Defendant  
8 appeared for post-indictment arraignment on May 11, 2017, and was  
9 released on bond pending trial. Jury trial is currently set for  
10 December 12, 2017.

11 2. As part of its investigation in the above-captioned case,  
12 the government is in possession of documents related to the charges  
13 against defendant, and seeks to provide those documents to counsel  
14 for defendant (although some of the materials may exceed the scope  
15 of the government's discovery obligations).

16 3. The government intends to produce to the "defense team"  
17 (defined below) materials related to personal identifying  
18 information of real persons, including, among other things, personal  
19 names, addresses, Social Security numbers, and bank account numbers.  
20 The purpose of the proposed protective order is to prevent the  
21 unauthorized dissemination, distribution, or use of materials  
22 containing the personal identifying information of others. If this  
23 information is disclosed to defendant without limitation, it will  
24 risk the privacy and security of the information's legitimate  
25 owners. The government has an ongoing obligation to protect these  
26 victims and third parties. The government cannot simply produce to  
27 defendant an unredacted set of discovery containing this  
28 information.

1           4.     Personal identifying information makes up a significant  
2 part of the discovery in this case and such information itself, in  
3 many instances, has evidentiary value. If the government were to  
4 attempt to redact all this information in strict compliance with  
5 Federal Rule of Criminal Procedure 49.1, the Central District of  
6 California's Local Rules regarding redaction, and the Privacy Policy  
7 of the United States Judicial Conference, the defense would receive  
8 a set of discovery that would be highly confusing and difficult to  
9 understand, and defense counsel would not be able to adequately  
10 evaluate the case, advise his client, or prepare for trial.

11           5.     The parties recognize that the materials containing  
12 personal identifying information that the government produces to the  
13 defense pursuant to the proposed protective order are solely for the  
14 use of defendant, his attorneys, or other individuals or entities  
15 acting within the attorney-client relationship to prepare for the  
16 trial in this case.

17           6.     Accordingly, the parties jointly request a protective  
18 order that will permit the government to produce discovery that is  
19 unredacted, but preserves the privacy and security of victims and  
20 third parties while placing limitations on defendant's access to the  
21 discovery without the defense team present.

22           7.     The parties agree that the following conditions, if  
23 ordered by the Court in the proposed protective order (the  
24 "Protective Order"), will serve the government's interest in  
25 maintaining the privacy and security of victims and third parties,  
26 while permitting the defense to understand the government's evidence  
27 against this defendant:  
28

1           a.     For purposes of the Protective Order, the term  
2 "Personal Identifying Information" ("PII") includes any information  
3 that can be used to identify a person, including name, address, date  
4 of birth, Social Security number, driver's license number, telephone  
5 number, account number, or personal identification number. The term  
6 "Protected Information" refers to materials containing PII that the  
7 government produces to the defense pursuant to the Protective Order.

8           b.     For purposes of the Protective Order, the term  
9 "defense team" refers to (1) defendant's counsel of record,  
10 (2) other attorneys at defense counsel's law firm who may be  
11 consulted regarding case strategy in the above-captioned matter,  
12 (3) defense investigators who are assisting defense counsel with  
13 this case, (4) retained experts or potential experts, and  
14 (5) paralegals, legal assistants, and other support staff to  
15 defendant's counsel of record providing assistance on this case --  
16 all of whom have been advised of their obligations under the  
17 Protective Order and have affirmed to defendant's counsel of record  
18 that they agree to be bound by the terms of the Protective Order.  
19 The term "defense team" does not include defendant, his family  
20 members, or any other associates of defendant.

21           c.     Defendant's counsel of record agrees to advise all  
22 members of the defense team of their obligations under the  
23 Protective Order and ensure their agreement to follow the Protective  
24 Order, prior to providing members of the defense team with access to  
25 any materials subject to the Protective Order.

26           d.     The government is authorized to provide defendant's  
27 counsel of record with Protected Information marked with the  
28 following legend: "SUBJECT TO PROTECTIVE ORDER." If defendant

1 objects to any such designation, he may do so by application to the  
2 Court upon duly noticed motion, following meeting and conferring  
3 with the government regarding the objection.

4 e. Defendant may review Protected Information in this  
5 case only in the presence of a member of the defense team, and his  
6 counsel of record shall ensure that defendant is never left alone  
7 with any discovery subject to the Protective Order. Defendant may  
8 see and review Protected Information in the presence of a member of  
9 the defense team, but defendant may not copy, keep, maintain, or  
10 otherwise possess any of such Protected Information in this case at  
11 any time. Defendant must return any Protected Information to the  
12 defense team at the conclusion of any meeting at which defendant is  
13 permitted to view the Protected Information. Defendant may not take  
14 any Protected Information out of the room in which he is meeting  
15 with the defense team. Defendant may not write down or memorialize  
16 any PII contained in the Protected Information. At the conclusion  
17 of any meeting with defendant, the member of the defense team  
18 present shall take with him or her all Protected Information. At no  
19 time, under no circumstance, will any Protected Information be left  
20 in the possession, custody, or control of defendant, whether he is  
21 incarcerated or not.

22 f. The defense team shall not permit anyone other than  
23 the defense team to have possession of Protected Information,  
24 including defendant himself.

25 g. The defense team shall access and use Protected  
26 Information for the sole purpose of preparing for trial or any  
27 related proceedings in this case. The defense team may review  
28 Protected Information with a witness or potential witness in this

1 case, including defendant. Before being shown any portion of  
2 Protected Information, however, any witness or potential witness  
3 must be informed of, and agree in writing to be bound by, the  
4 requirements of the Protective Order. No witness or potential  
5 witness may retain Protected Information, or any copy thereof, after  
6 his or her review of those materials with the defense team is  
7 complete.

8 h. The defense team shall maintain Protected Information  
9 safely and securely, and shall exercise reasonable care in ensuring  
10 the confidentiality of those materials by (1) not permitting anyone  
11 other than defense team members and defendant as restricted above to  
12 see Protected Information, (2) not divulging to anyone the contents  
13 of Protected Information, and (3) not permitting Protected  
14 Information to be outside the defense team's offices, homes,  
15 vehicles, or personal presence.

16 i. To the extent that notes are made that memorialize,  
17 in whole or in part, the PII in any Protected Information, or to the  
18 extent that copies are made for authorized use by members of the  
19 defense team, such notes, copies, or reproductions become Protected  
20 Information subject to the Protective Order and must be handled in  
21 accordance with the terms of the Protective Order.

22 j. The defense team shall use Protected Information and  
23 materials otherwise identified as containing PII only for the  
24 litigation of this matter and for no other purpose. Litigation of  
25 this matter includes any appeal filed by defendant and any motion  
26 filed by defendant pursuant to 28 U.S.C. § 2255. In the event that  
27 a party needs to file Protected Information or materials otherwise  
28 identified as containing PII with the Court or divulge the contents

1 of such materials in court filings, the filing should be made under  
2 seal. If the Court rejects the request to file such information  
3 under seal, the party seeking to file such information shall provide  
4 advance written notice to the other party to afford such party an  
5 opportunity to object or otherwise respond to such intention. If  
6 the other party does not object to the proposed filing, the party  
7 seeking to file such information shall redact the PII and make all  
8 reasonable attempts to limit the divulging of PII.

9 k. The parties also agree that any PII produced in the  
10 course of discovery in the above-captioned matter prior to the date  
11 of the Protective Order shall be subject to the terms of the  
12 Protective Order.

13 l. Upon the final disposition of this case, any  
14 Protected Information and materials otherwise identified as  
15 containing PII shall not be used, in any way, in any other matter,  
16 absent a court order. All materials designated subject to the  
17 Protective Order maintained in the defense team's files shall remain  
18 subject to the Protective Order unless and until such order is  
19 modified by court order. Within thirty days of the conclusion of  
20 appellate and post-conviction proceedings, the defense team shall  
21 return Protected Information and materials otherwise identified as  
22 containing PII to the government, certify that such materials have  
23 been destroyed, or certify that such materials are being kept  
24 pursuant to the Business and Professions Code and the Rules of  
25 Professional Conduct.

26 m. In the event that there is a substitution of counsel  
27 prior to when such documents must be returned, new defense counsel  
28 must join this Protective Order before any Protected Information or

1 materials otherwise identified as containing PII may be transferred  
2 from the undersigned defense counsel to the new defense counsel, who  
3 then will become the defense team's custodian of materials  
4 designated subject to the Protective Order and who shall then become  
5 responsible, upon the conclusion of appellate and post-conviction  
6 proceedings, for returning to the government, certifying the  
7 destruction of, or retaining pursuant to the Business and  
8 Professions Code and the Rules of Professional Conduct all Protected  
9 Information and materials otherwise identified as containing PII.

10 n. Subject to subparagraph k above, the government may  
11 produce Protected Information only after the Court issues the  
12 Protective Order.

13 8. Defense counsel has conferred with defendant regarding  
14 this stipulation and the proposed order thereon, and defendant  
15 agrees to the terms of the proposed order.

16 9. Accordingly, the parties have agreed to request that the  
17 Court enter a protective order in the form submitted herewith.

18 IT IS SO STIPULATED.

19 DATED: July 5, 2017

SANDRA R. BROWN  
Acting United States Attorney

LAWRENCE S. MIDDLETON  
Assistant United States Attorney  
Chief, Criminal Division

23 /s/ Frances S. Lewis  
24 FRANCES S. LEWIS  
25 Assistant United States Attorney

26 Attorneys for Plaintiff  
27 UNITED STATES OF AMERICA  
28



1 DATED: July 5, 2017

/s/ Jennifer Uyeda (w/ auth.)  
JENNIFER UYEDA  
DEPUTY FEDERAL PUBLIC DEFENDER  
Attorney for Defendant  
CHRISTOPHER PSAILA